

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2749

Introduced by Assembly Members Logue and Norby

February 19, 2010

An act to amend Section ~~4903~~ 4903.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2749, as amended, Logue. Workers' ~~compensation~~ *compensation*: *lien claims*.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, and in the course of, employment. Existing law authorizes a medical provider to file a lien claim with the Workers' Compensation Appeals Board for certain expenses incurred by the provider.

Existing law prohibits lien claims for expenses incurred by or on behalf of the injured employee, as provided, and, to the extent that the employee is entitled to reimbursement, as specified, for medical-legal expenses, from being filed after 6 months from the date on which the appeals board or workers' compensation administrative law judge issues a final decision, findings, order, or award on the merits of the claim, after 5 years from the date of the injury for which the services were provided, or after one year from the date the services were provided, whichever is later.

This bill would, instead, prohibit lien claims for the above-described expenses from being filed one year from the date the services were provided. The bill would prohibit lien claims for expenses incurred for

providing inpatient medical services from being filed after 6 months from the date the provider of those services knew or should have known the inpatient services were for treating an industrial injury.

This bill would require employers or employers' insurance carriers to include a benefit notice with any objection to a bill for medical services or an explanation of benefits that advises the provider of those services or benefits of the above-described deadline for filing lien claims and the consequences of failing to meet that deadline.

This bill would require the above-described lien claims to be accompanied by certain documentation, including the original bill or bills for the services. The bill would provide that if the lien claim does not include the documentation, it shall be rejected, shall not receive further consideration, and that notice shall be provided to all parties of record that the lien claimant did not meet the documentation requirements and that the lien claim has been rejected.

~~Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, which requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, and in the course of, employment. Existing law provides for the creation of the Workers' Compensation Appeals Board to hear appeals of workers' compensation disputes, as specified. Existing workers' compensation law authorizes the appeals board to determine and allow specified expenses, including reasonable attorney's fees for legal services, as liens against any sum to be paid as compensation.~~

~~This bill would make technical, nonsubstantive changes to the above-described provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4903.5 of the Labor Code is amended to
2 read:

3 4903.5. (a) ~~No~~(1) *Except as provided in paragraph (2), no*
4 lien claim for expenses as provided in subdivision (b) of Section
5 4903 may be filed after six months from the date on which the
6 appeals board or a workers' compensation administrative law judge
7 issues a final decision, findings, order, including an order approving

1 ~~compromise and release, or award, on the merits of the claim, after~~
2 ~~five years from the date of the injury for which the services were~~
3 ~~provided, or after one year from the date the services were~~
4 ~~provided, whichever is later provided.~~

5 *(2) No lien claim for expenses incurred for providing inpatient*
6 *medical services may be filed after six months from the date the*
7 *provider of those services knew or should have known the inpatient*
8 *services were for treating an industrial injury.*

9 (b) Notwithstanding subdivision (a), any health care provider,
10 health care service plan, group disability insurer, employee benefit
11 plan, or other entity providing medical benefits on a nonindustrial
12 basis, may file a lien claim for expenses as provided in subdivision
13 (b) of Section 4903 within six months after the person or entity
14 first has knowledge that an industrial injury is being claimed.

15 (c) The injured worker shall not be liable for any underlying
16 obligation if a lien claim has not been filed and served within the
17 allowable period. Except when the lien claimant is the applicant
18 as provided in Section 5501, a lien claimant shall not file a
19 declaration of readiness to proceed in any case until the
20 case-in-chief has been resolved.

21 (d) This section shall not apply to civil actions brought under
22 the Cartwright Act (Chapter 2 (commencing with Section 16700)
23 of Part 2 of Division 7 of the Business and Professions Code), the
24 Unfair Practices Act (Chapter 4 (commencing with Section 17000)
25 of Part 2 of Division 7 of the Business and Professions Code), or
26 the federal Racketeer Influenced and Corrupt Organization Act
27 (Chapter 96 (commencing with Section 1961) of Title 18 of the
28 United States Code) based on concerted action with other insurers
29 that are not parties to the case in which the lien or claim is filed.

30 *(e) Employers or employers' insurance carriers shall include*
31 *a benefit notice with any objection to a bill for medical services*
32 *or an explanation of benefits that advises the provider of those*
33 *services or benefits of the deadline for filing lien claims described*
34 *in subdivision (a) and the consequences of failing to meet that*
35 *deadline.*

36 *(f) (1) A lien claimant filing a claim for expenses as provided*
37 *in subdivisonsubdivision (b) of Section 4903 shall include the*
38 *following documentation with the lien claim:*

1 (A) *The original bill or bills for the services for which the lien*
2 *claim is being filed. Ledger or billing payment histories shall not*
3 *be sufficient for purposes of complying with this subparagraph.*

4 (B) *A statement stating that the expenses for which the lien claim*
5 *is being made were incurred for services authorized by the*
6 *employer or, if the expenses were not authorized by the employer,*
7 *that the expenses were for services justified for another specified*
8 *reason.*

9 (C) *Certification that the lien claim complies with applicable*
10 *statutes and rules.*

11 (2) *If a lien claim for expenses as provided in subdivision (b)*
12 *of Section 4903 does not include the documentation required by*
13 *paragraph (1), all of the following shall occur:*

14 (A) *The lien claim shall be rejected.*

15 (B) *The lien claim shall receive no further consideration.*

16 (C) *Notice shall be provided to all parties of record that the*
17 *lien claimant did not meet the requirements under this subdivision*
18 *and that the lien claim has been rejected.*

19 ~~SECTION 1. Section 4903 of the Labor Code is amended to~~
20 ~~read:~~

21 ~~4903. The appeals board may determine, and allow as liens~~
22 ~~against any sum to be paid as compensation, any amount~~
23 ~~determined as hereinafter set forth in subdivisions (a) to (i),~~
24 ~~inclusive. If more than one lien is allowed, the appeals board may~~
25 ~~determine the priorities, if any, between the liens allowed. The~~
26 ~~liens that may be allowed hereunder are as follows:~~

27 ~~(a) A reasonable attorney's fee for legal services pertaining to~~
28 ~~any claim for compensation either before the appeals board or~~
29 ~~before any of the appellate courts, and the reasonable disbursements~~
30 ~~in connection therewith. No fee for legal services shall be awarded~~
31 ~~to any representative who is not an attorney, except with respect~~
32 ~~to those claims for compensation for which an application, pursuant~~
33 ~~to Section 5501, has been filed with the appeals board on or before~~
34 ~~December 31, 1991, or for which a disclosure form, pursuant to~~
35 ~~Section 4906, has been sent to the employer, or insurer or~~
36 ~~third-party administrator, if either is known, on or before December~~
37 ~~31, 1991.~~

38 ~~(b) The reasonable expense incurred by or on behalf of the~~
39 ~~injured employee, as provided by Article 2 (commencing with~~
40 ~~Section 4600) and, to the extent the employee is entitled to~~

1 reimbursement pursuant to Section 4621, medical-legal expenses
2 as provided by Article 2.5 (commencing with Section 4620) of
3 Chapter 2 of Part 2.

4 (e) ~~The reasonable value of the living expenses of an injured~~
5 ~~employee or of his or her dependents, subsequent to the injury.~~

6 (d) ~~The reasonable burial expenses of the deceased employee,~~
7 ~~not to exceed the amount provided for by Section 4701.~~

8 (e) ~~The reasonable living expenses of the spouse or minor~~
9 ~~children of the injured employee, or both, subsequent to the date~~
10 ~~of the injury, where the employee has deserted or is neglecting his~~
11 ~~or her family. These expenses shall be allowed in the proportion~~
12 ~~that the appeals board deems proper, under application of the~~
13 ~~spouse, guardian of the minor children, or the assignee, pursuant~~
14 ~~to subdivision (a) of Section 11477 of the Welfare and Institutions~~
15 ~~Code, of the spouse, a former spouse, or minor children. A~~
16 ~~collection received as a result of a lien against a workers'~~
17 ~~compensation award imposed pursuant to this subdivision for~~
18 ~~payment of child support ordered by a court shall be credited as~~
19 ~~provided in Section 695.221 of the Code of Civil Procedure.~~

20 (f) ~~The amount of unemployment compensation disability~~
21 ~~benefits that have been paid under or pursuant to the~~
22 ~~Unemployment Insurance Code in those cases where, pending a~~
23 ~~determination under this division there was uncertainty whether~~
24 ~~the benefits were payable under the Unemployment Insurance~~
25 ~~Code or payable hereunder; provided, however, that any lien under~~
26 ~~this subdivision shall be allowed and paid as provided in Section~~
27 ~~4904.~~

28 (g) ~~The amount of unemployment compensation benefits and~~
29 ~~extended duration benefits paid to the injured employee for the~~
30 ~~same day or days for which he or she receives, or is entitled to~~
31 ~~receive, temporary total disability indemnity payments under this~~
32 ~~division; provided, however, that any lien under this subdivision~~
33 ~~shall be allowed and paid as provided in Section 4904.~~

34 (h) ~~The amount of family temporary disability insurance benefits~~
35 ~~that have been paid to the injured employee pursuant to the~~
36 ~~Unemployment Insurance Code for the same day or days for which~~
37 ~~that employee receives, or is entitled to receive, temporary total~~
38 ~~disability indemnity payments under this division, provided,~~
39 ~~however, that any lien under this subdivision shall be allowed and~~
40 ~~paid as provided in Section 4904.~~

- 1 ~~(i) The amount of indemnification granted by the California~~
2 ~~Victims of Crime Program pursuant to Article 1 (commencing~~
3 ~~with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title~~
4 ~~2 of the Government Code.~~
5 ~~(j) The amount of compensation, including expenses of medical~~
6 ~~treatment, and recoverable costs that have been paid by the~~
7 ~~Asbestos Workers' Account pursuant to the provisions of Chapter~~
8 ~~11 (commencing with Section 4401) of Part 1.~~

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